

## **Minutes of Special and Regular Meeting of July 12, 2011**

One Twin Pines Lane

### **CLOSED SESSION – 6:30 P.M.**

- A. Conference with Real Property Negotiator Scoles pursuant to Government Code Section 54956.8, lease of property at 1870 Ralston Avenue with 1870 Art Center, for lease price, terms and conditions
- B. Conference with Real Property Negotiator Scoles Pursuant to Government Code Section 54956.8 Concerning Potential Sale of Two Parcels: (APN 040-261-060) Real (APN 044-222-140)
- C. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation: Veal vs. City of Belmont et al (N.D. Cal. C10-05456)
- D. Conference regarding Public Employee Appointment Pursuant to Government Code Section 54957: City Attorney

Attended by: Councilmembers Feierbach, Braunstein, Wozniak, Lieberman, Warden, City Manager Scoles, Interim City Attorney Kane (Items A-C only), Police Chief Mattei (Item C only), Community Development Director de Melo (Item B only), Parks and Recreation Director Gervais (Item A only), Finance Director Fil (Items A-B only). City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time being 7:40 P.M.

**Terri Cook**  
**Belmont City Clerk**

This meeting was not tape recorded or videotaped

### **REGULAR MEETING – CALL TO ORDER 7:40 P.M.**

#### **ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Wozniak, Braunstein, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, Interim City Attorney Kane, Finance Director Fil, Police Chief Mattei, Deputy Finance Director Lazzari, Police Officer Lewis, Community Development Director de Melo, Parks and Recreation Director Gervais, Police Sergeant Halleran, City Treasurer Violet, City Clerk Cook

#### **PLEDGE OF ALLEGIANCE**

Led by City Manager Scoles

#### **REPORT FROM CLOSED SESSION**

Interim City Attorney Kane stated that direction was given but no action taken during the Closed Session held previously.

REGULAR MEETING

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## **SPECIAL PRESENTATIONS**

### **Presentation Regarding National Night Out, August 2, 2011**

Police Officer Lewis provided an overview of the four-year expansion of National Night Out activities in the City of Belmont. He outlined the events that are planned for 2011.

Police Chief Mattei thanked the committee members, and noted that National Night Out events have been expanding every year in Belmont.

Representatives from some of the neighborhood events outlined their activities. Mary Morrissey Parden, Belmont Chamber of Commerce, noted that Oracle Corporation had provided a \$5,000 grant for National Night Out, which funded fingerprint/DNA kits and tote bags that would be made available at each of the events. She also noted that CERT (Community Emergency Response Team) members would be available at each event location.

Councilmember Braunstein thanked the committee for its efforts, and expressed his appreciation that National Night Out events were expanding.

**ACTION:** On a motion by Councilmember Braunstein, seconded by Councilmember Wozniak, Resolution 10398 Supporting National Night Out was unanimously approved by a show of hands.

## **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**John Violet**, Belmont resident, announced the passing of Belmont resident and teacher, Connie Morgan. He requested that tonight's meeting be adjourned in her memory.

## **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Mayor Feierbach announced that former Councilmember and Mayor Meg Buckley had recently passed away. She noted that Ms. Buckley, who served on the City Council from 1978 to 1982, was the first female Mayor in Belmont. She read a poem that former City Clerk Jim McLaughlin had written for her. She stated that tonight's meeting would be adjourned in Ms. Buckley's memory.

Mayor Feierbach also announced the passing of former San Mateo City Councilmember Jane Baker, who was instrumental in saving Sugarloaf Mountain. She stated she would also adjourn tonight's meeting in Ms. Baker's memory.

Mayor Feierbach stated that she attended a lunch hosted by the Henchmen Motorcycle Club. She announced an upcoming document shredding event for residents, to be held on July 16<sup>th</sup>. She reminded everyone that the second July City Council meeting was canceled. She indicated that the nomination period for the City Council, City Treasurer, and City Clerk race would open on July 18<sup>th</sup>.

**RECESS:**                   **8:07 P.M. (to consider the Redevelopment Agency agenda)**  
**RECONVENE:**       **8:30 P.M.**

## **AGENDA AMENDMENTS**

Councilmember Wozniak requested the removal of Consent Item 4-C (High Speed Rail (HSR) Ad-Hoc Committee Update/Report) and Item 4-I (Resolution Directing The City Manager To Enter Into A Professional Services Agreement With Knapp Consulting For An Amount Not To Exceed \$23,125 To Conduct Environmental Review For The Construction Of A Private Middle School At 6-8 And 10 Davis Drive) for separate consideration. Councilmember Warden requested the removal of Consent Item 4-J (Resolution Authorizing the City Manager to Renew the Contract with the Peninsula Conflict Resolution Center (PCRC) for Fiscal Year 2011-2012 for an Amount not to Exceed \$12,500), and Councilmember Braunstein requested the removal of Consent Item 4-K (City of Belmont Response to San Mateo Grand Jury Report, Titled, "Cell Towers: Public Opposition and Revenue Source") for separate consideration.

## **ITEMS APPROVED ON CONSENT CALENDAR**

**Approval of** Minutes of Special Meeting of June 21, 2011

**Motion to** Receive Monthly Financial Reports

**Approval of** Resolution 10399 Authorizing Purchase Order to ESRI for Annual Maintenance not to Exceed \$8,700

**Approval of** Resolution 10400 Authorizing Purchase Order to Eskel Porter Consulting for Annual Maintenance from Microsoft GP in an amount not to Exceed \$22,491.00

**Approval of** Resolution 10401 Authorizing Purchase Order to Eskel Porter Consulting for Annual Maintenance from Infor Global Solutions in an amount not to Exceed \$38,647.41

**Approval of** Resolution 10402 Approving A Change Order For The Highway 101 Bicycle Pedestrian Bridge Project To Improve Bicycle Access At Hiller Street And Masonic Way And To Establish A "No Parking" Zone On Masonic Way, City Contract Number 433

**Approval of** Resolution 10403 Approving a Professional Services Agreement with Cotton Shires and Associates for an Amount not to Exceed \$12,900 and an Additional 10% Contingency of \$1,290 for the Geotechnical Design Update of the Hillman Avenue and Ruth Avenue Street Improvement Project, City Contract Number 511

**ACTION:** On a motion by Councilmember Wozniak, seconded by Councilmember Braunstein, the Consent Agenda was unanimously approved, as amended, by a show of hands.

## **ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

### **High Speed Rail (HSR) Ad-Hoc Committee Update/Report**

Community Development Director de Melo thanked the committee members for their efforts on the report.

Councilmember Wozniak noted that the report was available on the web, but expressed a desire to receive a verbal update.

**Kristin Mercer**, High Speed Rail Committee Facilitator, stated that pending legislation regarding high speed rail has passed one house of legislature. She explained that the high speed rail authority is

likely to be dissolved as a separate organization and folded into a government entity. She described a recent report from the Legislative Analyst's Office, which was peer-reviewed, which made a number of recommendations for moving forward. She advised that Caltrain recently received a grant to implement positive train control. She noted that the High Speed Rail Committee will be providing information at all of the National Night Out venues.

**ACTION:** On a motion by Councilmember Wozniak, seconded by Councilmember Braunstein, the High Speed Rail Ad-Hoc Committee Update/Report was unanimously accepted by a show of hands.

**Resolution Directing The City Manager To Enter Into A Professional Services Agreement With Knapp Consulting For An Amount Not To Exceed \$23,125 To Conduct Environmental Review For The Construction Of A Private Middle School At 6-8 And 10 Davis Drive**

In response to Councilmember Wozniak, Community Development Director de Melo stated that all costs will be borne by the applicant. He explained that the applicant had not yet filed a formal submittal for this project, and no hearings have yet been scheduled. He advised that any future notifications will be expanded beyond the 300' radius.

Councilmember Wozniak recommended including the Ralston Middle School parents in the notification process.

Mayor Feierbach stated that the Hallmark residents have expressed concerns regarding the loss of view this project might affect.

Councilmember Braunstein recommended including Fox parents in the notification, as there have been concerns expressed regarding traffic. He also recommended a peer review of the traffic analysis, and expressed concern regarding the appropriateness of a school located adjacent to other uses.

Community Development Director de Melo explained that the environmental study will address the appropriateness of land use. He noted that the resolution could be modified to provide for peer review. He clarified that partial funds have been received from the applicant to cover up-front costs, and complex project fees will be paid upon formal submittal by the applicant. He further clarified that the City will be fully covered for all associated costs.

**Jennifer Renk**, on behalf of Crystal Springs/Uplands School, stated that monies and a placeholder application have been submitted.

**ACTION:** On a motion by Councilmember Wozniak, seconded by Councilmember Braunstein, Resolution 10404 Directing The City Manager To Enter Into A Professional Services Agreement With Knapp Consulting For An Amount Not To Exceed \$23,125 To Conduct Environmental Review For The Construction Of A Private Middle School At 6-8 And 10 Davis Drive was unanimously approved by a show of hands, amended to include peer review of the traffic analysis, for an amount not to exceed \$24,075.

**Resolution Authorizing the City Manager to Renew the Contract with the Peninsula Conflict Resolution Center (PCRC) for Fiscal Year 2011-2012 for an Amount not to Exceed \$12,500**

Councilmember Warden expressed concern regarding the expenditure for this contract. He noted there have been very few cases in the first three quarters of the year. He also expressed concern regarding the benefit and suggested billing on a case-by-case basis.

Police Sergeant Halleran explained that there have been ten cases during the last fiscal year. He noted that some monies were carried over from the previous year.

**Ann Bers**, Peninsula Conflict Resolution Center (PCRC), explained that positive outcomes can occur at any time in the process. She explained the screening process used to determine if a case fee will be charged to the City. She described the services provided by PCRC, and noted that discounts are available if a City is under contract. She stated that 13 cities and the County of San Mateo are currently under contract with PCRC, and that the contract amount is based on population, and some cities have added services beyond the base contract. She stated that volunteers are used for mediation services, and she described case management and how much time is involved. She noted there are many ways to achieve goals and successes in each case.

Police Chief Mattei stated that PCRC serves as an independent mediator on a number of issues. He noted that staff could provide mediation, but it is time consuming. He clarified that mediation sometimes helps to avoid litigation.

**ACTION:** Councilmember Warden made a motion, seconded by Mayor Feierbach, to reject the proposed contract and to direct staff to renegotiate the terms.

Councilmember Lieberman stated that he is comfortable with the proposed contract and noted that staff time will be required to renegotiate.

**ACTION:** On the previous motion, said motion passed by a show of hands (3-2, Braunstein/Lieberman no).

**City of Belmont Response to San Mateo Grand Jury Report, Titled, "Cell Towers: Public Opposition and Revenue Source"**

Councilmember Braunstein expressed a desire to include more information within the response to Recommendation 3 regarding the fact that federal law precluding the use of perceived health risk as a basis of denial of an application for a cell tower. He suggested that federal law catch up with public opinion, as residents are concerned about potential health risks.

**ACTION:** On a motion by Councilmember Braunstein, seconded by Councilmember Wozniak, and unanimously approved by a show of hands to table the action as presented and to have staff modify the response to Recommendation 3 and bring it back to the City Council for subsequent action.

## HEARINGS

### **Public Hearing to Consider Adoption of a Resolution Accepting the Report of Sewer Treatment Facility Charges for Fiscal Year 2011-2012, and Directing the Filing of Charges for Collection by the County Auditor**

Finance Director Fil provided a history of the City Council's action in 2009 to implement an annual fee for the City of Belmont's cost for the rehabilitation of the sewer treatment facility. He noted that the Council deferred the implementation of the new fee until the 2011-12 tax year. He advised that the bonds have already been issued. He clarified that since this is the first year this charge will appear on the tax roll, a Public Hearing is required to forward those charges to the Assessor's Office.

Mayor Feierbach opened the Public Hearing.

City Clerk Cook shared the written comments that were provided by Belmont resident Bob Krainz who requested that the City Council postpone action on this item until all facts are reviewed and presented to the citizens.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Wozniak, the Public Hearing was unanimously closed by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Lieberman, Resolution 10405 Accepting the Report of Sewer Treatment Facility Charges for Fiscal Year 2011-2012, and Directing the Filing of Charges for Collection by the County Auditor was unanimously approved by a show of hands.

**RECESS: 9:20 P.M.**

**RECONVENE: 9:30 P.M.**

### **Public Hearing to Consider Text Amendments to Belmont Municipal Code Chapter 25 as Related to the Assessment and Protection of Trees (Tree Ordinance)**

Community Development Director de Melo described the process that has transpired to date regarding this Priority Calendar project. He noted that the Tree Ordinance Ad Hoc Committee held 15 meetings over the course of two years to draft a new tree ordinance. He explained that some members of the ad hoc committee held differing opinions from the majority.

Parks and Recreation Director Gervais stated that all opinions and positions were discussed by the Ad Hoc Committee, the Parks and Recreation Commission, and the Planning Commission. He described the substantive changes that have been proposed from the existing ordinance. He noted that the document has been simplified, as the existing ordinance is confusing. He explained that no permit is required if there is danger of property damage due to an issue with a tree. He outlined comparison dimensions at breast height (DBH) with other cities, and that the Ad Hoc Committee recommended that this be set at 10 inches.

Community Development Director de Melo explained that the new ordinance will require the posting of the tree permit on site, and that tree replacement or payment of in-lieu fees will also be required. Parks and Recreation Director Gervais added that a permit fee will be initiated to recover costs. He noted that more permits will likely be needed due to the lower DBH threshold.

Mayor Feierbach expressed support for the inclusion of all species of trees requiring permits. She described a parcel wherein many non-protected-status trees were clear cut. Parks and Recreation Director Gervais responded that tree replacement would now be required in that example.

In response to Council questions, Parks and Recreation Director Gervais explained that the tree board will create a list of tree species whose removal could be approved through an administrative permit process. He clarified that the tree inspector would have the discretion to determine what constitutes a tree. He noted that the cost of a 24" box tree is greater than a 15-gallon tree, as it is larger and more mature. He explained that 24" box trees might not be feasible to plant in all cases.

In response to Councilmember Lieberman, Parks and Recreation Director Gervais explained that the number of replacement trees would be determined by the tree inspector. Community Development Director de Melo stated that if a large tree is being removed, replacement is likely to be greater than 1:1. Parks and Recreation Director Gervais outlined the replacement factors to be considered by the tree board.

Councilmember Wozniak recommended adding those factors to the ordinance.

Mayor Feierbach opened the Public Hearing.

**Barry Lake**, Belmont resident, expressed concerns regarding the unintended consequences of the proposed ordinance, as well as concerns regarding the definition of a protected tree. He noted that certain shrubs could meet the definition of a tree. He explained that he has already pre-planted trees on his property in anticipation of having to remove trees in the future. He stated that the original ordinance is not confusing.

Parks and Recreation Director de Melo explained that a permit would not be required for shrub or bush removal, even if it is large. He noted that the ordinance is intended to address mature trees.

**Stephen Cann**, Belmont resident, noted that he, too, has pre-planted trees in anticipation of tree removal. He took issue with the City of Belmont dictating private property maintenance.

**Robert Mayer**, Member of the Tree Ad Hoc Committee, concurred with the need to simplify the existing tree ordinance. He expressed concern regarding the single definition of protected tree, and stated the proposed new ordinance contains too much bureaucracy. He stated that the City's arborist was not involved with the Ad Hoc Committee. He stated his objection to the process in that he was denied the right to submit a minority report. He noted that residents would not support the proposed ordinance.

Parks and Recreation Director de Melo clarified that the City's arborist reviewed the ordinance and provided feedback, which was shared with the Ad Hoc Committee.

**Jackie Horton**, Planning Commissioner, stated that she does not support the proposed ordinance. She noted that the City's arborist did not have much input. She expressed a desire that the ordinance outline both protected and unprotected species. She stated the ordinance may be difficult to enforce or administer. She expressed concern regarding the proposed tree permit fee. She noted that this ordinance would be the most restrictive in the area.

**Frank Magdaleno**, Belmont resident, expressed support for the desired creation of an urban forest. He noted that each homeowner should bear responsibility for trees. He does not support classifying all tree species as protected.

**Mary Morrissey-Parden**, Redwood City resident, recommended including a requirement to remove tree stumps.

Community Development Director de Melo stated that the ordinance could be modified based on the public testimony. Parks and Recreation Director Gervais clarified that significant progress was made by the Ad Hoc Committee, which supports the proposed ordinance.

**ACTION**: On a motion by Councilmember Warden, seconded by Councilmember Wozniak, the Public Hearing was unanimously closed by a show of hands.

Mayor Feierbach noted that it was she who introduced the original tree ordinance in the 1990's, and objections were raised at that time. The ordinance was subsequently revised, which also resulted in objections. She explained that any revision is likely to raise objections. She expressed support for the ordinance as presented.

Councilmember Wozniak expressed the need to clarify the definition of a shrub. She expressed support for the delineation of 10 inches DBH, but could support increasing it to 12 inches. She noted that some trees have been removed without replacement. She expressed a need to receive reports from the tree board, and stated that outreach is needed for the new ordinance.

**MEETING EXTENSION**: At this time, being 10:30 P.M., on a motion by Councilmember Wozniak, seconded by Councilmember Warden, the meeting was unanimously extended for 30 minutes by a show of hands.

Councilmember Warden suggested refining the definition of a tree. He expressed support for the requirement of tree replacement if trees are to be removed. He noted that many species of trees exist and do well in Belmont. He stated that the permit process is easy. He supports the proposed ordinance.



Councilmember Lieberman recognized the work done by the Ad Hoc Committee on the proposed ordinance. He expressed concern that a committee member was discouraged by the process and was told that no minority report was wanted, as he is always interested in multiple views. He expressed support for simplification of the process. He is concerned that three Planning Commissioners do not support the ordinance. He would like to see other cities' ordinances for comparison. He is concerned regarding enforcement provisions, and that some people might unwittingly be in violation. He noted there are strict penalties.

Councilmember Warden noted that the existing tree ordinance contains the same penalties as those in the proposed ordinance.

Councilmember Braunstein expressed support for continuation of the discussion. He would like the opportunity to review this matter further. He noted there is no urgency in adoption of the ordinance, and that the proposed ordinance received a slim majority support from the Planning Commission.

In response to Mayor Feierbach's inquiry regarding the submission of a minority report, Community Development Director de Melo stated that it was the Ad Hoc Committee's desire to forward a single ordinance. He noted that Mr. Mayer was the only committee member with a minority opinion.

**ACTION:** Councilmember Warden made a motion, seconded by Mayor Feierbach, to introduce the ordinance by title, to waive further reading, and to set the second reading and adoption for August 9, 2011.

Councilmember Lieberman stated that the current ordinance does not protect all trees.

Community Development Director de Melo stated that outreach will be performed, and there would be a one-year review of the new ordinance.

Councilmember Wozniak expressed support for postponing this matter, but noted that changes could be made at the second reading of the ordinance.

Interim City Attorney Kane stated that a new first reading of the ordinance could always be made.

**ACTION:** On the previously-stated motion, said motion approved by a show of hands (3-1-1, Braunstein no, Lieberman abstain).

## **NEW BUSINESS**

### **Motion To Establish Belmont San Juan Hills Master Plan Ad-Hoc Subcommittee**

Community Development Director de Melo stated that some work has already been done relative to pre-planning of the newly-acquired San Juan properties. He expressed a desire to form a subcommittee consisting of two Councilmembers, the City Treasurer, and staff.

Mayor Feierbach and Councilmember Lieberman expressed a desire to serve on this subcommittee.

Councilmember Braunstein questioned the need for an ad hoc committee.

Mayor Feierbach stated that all Councilmembers should participate in the discussion.

Discussion ensued. Council concurred not to form a subcommittee at this time.

**COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL  
ASSIGNMENT UPDATES, AND STAFF ITEMS**

**Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee  
Assignments**

No Reports.

**Verbal Report from City Manager**

No Report.

**ADJOURNMENT** at this time, being 10:55 P.M., in memory of Former Councilmember and Mayor Meg Buckley.

**ADJOURNMENT** at this time, being 10:55 P.M., in memory of Former San Mateo Councilmember and Mayor Jane Baker.

**ADJOURNMENT** at this time, being 10:55 P.M., in memory of Belmont-Redwood Shores Teacher and Belmont resident Connie Morgan.

**Terri Cook  
City Clerk**

Meeting Tape Recorded and Videotaped  
Audio Recording 794